

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Doyle W. Argo, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation on August 11, 2006 (Dkt. No. 5), recommending that the Application to Proceed in Forma Pauperis be denied and that the action be dismissed if the filing fee was not paid within twenty days. Petitioner timely objected and the Court considers the matter de novo.

In his objection, Petitioner alleges that he is unable to pay. In support of this allegation, he merely attaches the same institutional account which accompanied his Application to Proceed in Forma Pauperis. It shows a balance of over \$13.00, well more than enough to pay the \$5.00 filing fee. There is nothing alleged or apparent which would relieve Petitioner of this obligation.

Accordingly, the Court adopts the Report and Recommendation in its entirety, and for the reasons stated therein, the Application to Proceed in Forma Pauperis is denied, and because the filing fee has not been paid within the time limits set out in the Report and Recommendation, this action is dismissed, without prejudice.

IT IS SO ORDERED this 28th day of September, 2006.



ROBIN J. CAUTHRON
United States District Judge